

1 [1511-12 \(9th Cir.1991\)](#), overruled on other grounds by [Helling v. McKinney](#), 502 U.S. 903, 112 S.Ct.
2 291, 116 L.Ed.2d 236 (1991). Two statutes must be considered whenever the district court receives a
3 request to prepare transcripts at government expense. First, [28 U.S.C. § 1915\(c\)](#) defines the limited
4 circumstances in which the court can direct payment by the United States for printing the record on
5 appeal for an indigent litigant. [Section 1915\(c\)](#) provides:

6 (c) Upon the filing of an affidavit in accordance with subsections (a) and (b) and the
7 prepayment of any partial filing fee as may be required under subsection (b), the court
8 may direct payment by the United States of the expenses of (1) printing the record on
9 appeal in any civil or criminal case, if such printing is required by the appellate court;
10 (2) preparing a transcript of proceedings before a United States magistrate judge in any
11 civil or criminal case, if such transcript is required by the district court, in the case of
12 proceedings conducted under section 636(b) of this title or under [section 3401\(b\) of
title 18, United States Code](#); and (3) printing the record on appeal if such printing is
required by the appellate court, in the case of proceedings conducted pursuant to
section 636(c) of this title. Such expenses shall be paid when authorized by the Director
of the Administrative Office of the United States Courts.

13 [28 U.S.C. § 1915\(c\)](#).

14 Second, [28 U.S.C. § 753\(f\)](#) allows the court to order the government to pay for transcripts on
15 appeal only if “the trial judge or a circuit judge certifies that the suit or appeal is not frivolous (but
16 presents a substantial question).” [28 U.S.C. § 753\(f\)](#). A request for a transcript at government expense
17 should not be granted unless the appeal presents a substantial question. [Henderson v. United States,](#)
18 [734 F.2d 483, 484 \(9th Cir.1984\)](#).

19 According to his notice, Plaintiff indicates that his appeal is based on the Court’s September
20 28, 2010 order in which the Court found that Plaintiff’s second amended complaint failed to state any
21 cognizable claims against Defendant Davis and dismissed the claims against him. (ECF No. 16.) The
22 Court does not find that the appeal presents a substantial question. After multiple attempts, Plaintiff
23 was unable to state a cognizable claim against Defendant Davis despite the Court’s provision of the
24 relevant legal standards and identification of pleading deficiencies. (ECF Nos. 7, 9.) Accordingly, the
25 request for trial transcripts at government expense shall be denied.

26 Plaintiff is notified that the appellate court will request any necessary documents that are in the
27 record directly from this Court. Plaintiff also is notified that he may renew his request for a transcript
28 at government expense with the appellate court by filing a motion in that court.

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III. Conclusion and Order

Based on the above, Plaintiff's motion for trial transcripts at government expense is DENIED.

IT IS SO ORDERED.

Dated: July 22, 2013

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE